CHAPTER 9. SELECTED PRACTICES

SECTION 1. RE-EXAMINATION OF AIRMEN UNDER SECTION 609

653. BACKGROUND. Section 609 of the Federal Aviation Act of 1958 (FA Act) authorizes the FAA Administrator to re-examine any airman at any time for the purpose of determining if that airman is competent to maintain the privileges of the airman's existing certifi-Such re-examinations, commonly termed "609 cate. actions," are not normally conducted unless an event occurs that calls into question the airman's competency. The event may have been an accident or an incident, or it may have occurred during a surveillance by the inspector. A 609 action is not punitive and is not intended to determine guilt or innocence; rather, it is conducted only for the purpose of resolving questions about an airman's competency. Detailed information on the enforcement aspects of re-examinations conducted under section 609 is found in FAA Order 2150.3, "Compliance and Enforcement Program."

655. GENERAL. This section contains direction and guidance to be used by inspectors when re-examining airmen for questions of competence noted during operations conducted under Part 121 and Part 135. Specifically, this section contains information concerning the following:

- The basis for a re-examination
- Inspector authority to prohibit operation of an aircraft
- · Notification of other FAA officials
- Procedures for initiating a re-examination
- Procedures for handling various responses to a notification for a re-examination
- Procedures for conducting a re-examination
- Procedures for handling the results of a re-examination

657. BASIS FOR A RE-EXAMINATION. An inspector's decision to conduct a re-examination of an airman's

competence must always be based on probable cause. This probable cause must be developed from facts and circumstances surrounding an event and must indicate clear evidence of incompetence. The airman's failure on a required proficiency or competency check, or even repeated failures on a check, does not by itself constitute probable cause for a re-examination. For example, if during the routine surveillance of a flight check of a pilot conducted by an operator's check airman, the pilot fails to perform a particular maneuver to the standards of the pilot's airman certificate, the check airman may stop the check, instruct the pilot, and then resume the check. This may happen more than once with one pilot, and does not indicate a lack of competence. In this case, the inspector should not initiate a request for re-examination. A re-examination would be initiated, however, if during an en route inspection, the inspector notes that a pilot performs in such a way that would call into question the safe completion of that or any subsequent flight. In such a case, the inspector should follow the guidance of this section to prevent the pilot from continuing to act as a required flight crewmember until the question of the pilot's competence has been resolved.

659. INSPECTOR AUTHORITY TO PROHIBIT THE OPERATION OF AIRCRAFT. If the inspector observes pilot incompetence during the airborne portion of an en route inspection, the inspector's inflight options are limited. Caution must be exercised on the part of the inspector as any derogatory comment could exacerbate the situation, resulting in a greater hazard to safety. The inspector should use discretion and try to determine what action, if any, on the inspector's part, would facilitate a safe completion of the flight. When the situation allows, the inspector shall advise the pilot that the pilot's competency is in question. The inspector shall further request that the airman voluntarily refrain from further flight until the question of competence has been resolved.

A. If the airman agrees to refrain from further flight, the inspector shall follow the procedures of this section and FAA Order 2150.3 when arranging and conducting the re-examination.

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NOTE: The FAA has full authority over the safety certification of air carrier operations. The FAA may also issue orders orally or in writing, as deemed necessary, to carry out FAA powers and duties under the FA Act. This includes the authority to make such orders immediately effective without notice, in order to meet any emergency requiring immediate action in the interest of safety in air commerce.

B. If the airman whose competence is in question does not agree to refrain from further flight, the inspector shall, as soon as possible upon landing, contact an appropriate management official of the operator by telephone. The inspector shall inform the operator's management official of the following:

- All pertinent information to show probable cause that the pilot's competence is in question
- The steps that the inspector intends to pursue based on the information
- A request that the operator assist the FAA in its investigation and take immediate action to ensure that the pilot does not serve on any further flights pending the outcome of the re-examination
- A reminder to the official that the FAA has the authority to prohibit, when warranted in the interest of aviation safety, the operation of the aircraft in the event that the operator fails to take action on its own

661. NOTIFICATION OF OTHER FAA OFFICIALS.

The inspector shall immediately notify his or her supervisor and the certificate management unit or office that holds the operator's certificate. This notification shall be by the most expeditious means possible, and must include the information in previous paragraph 659A, as well as the action the inspector intends to pursue. Usually, this notification is through the FAA Regional Operations Center in the field; however, in the interest of public safety, the inspector is authorized to directly contact the Washington Headquarters Operations Center at (202) 863-5100, if necessary. If the inspector does not receive a response from the operator that satisfactorily resolves the inspector's safety concerns, the inspector shall notify the management of Flight Standards according to the inspector's own chain-of-command, who in turn shall notify

the office of Assistant Chief Counsel in the region. The inspector shall elevate the notification to the highest FAA management official (up to and including the Administrator), as necessary, to contact the operator's management and to address the FAA's concern for flight safety.

663. PROCEDURES FOR INITIATING A RE-EXAMINA-

TION. The inspector may determine that a re-examination is necessary due to any of the following circumstances: after having examined reliable reports involving the airman; after having obtained evidence about the airman through an accident, incident, or enforcement investigation; or, based upon personal knowledge of an occurrence in which the airman's competence is the probable cause of the occurrence. After the inspector has determined that there is a sufficient basis for conducting a re-examination of an airman under section 609 of the FA Act, the inspector shall initiate the following procedures:

A. Notification to Airman of Re-Examination. The inspector shall notify the airman by letter that a re-examination is necessary (see figure 5.9.1.1.). The inspector must send the letter of notification by certified mail with a return receipt. The inspector should ensure that the letter contains the following specific information for the airman:

- The specific reasons for the re-examination, such as an accident, incident, or occurrence
- The identification of the certificate or ratings for which the re-examination is to be conducted, with appropriate emphasis items
- The appropriate category, class, and type of aircraft or simulator required for the re-examination
- Who the airman is to contact in response to the notification letter
- A time limit of 10 days upon receipt of the letter for responding to the notification letter

NOTE: If the re-examination is a result of an occurrence involving operations conducted under Part 121 or Part 135, the inspector shall send a copy of the letter to the operator and to the operator's principal operations inspector (POI). Additionally, for those situations involving critical safety issues, the POI should be

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consulted immediately so that the POI can coordinate with the operator regarding the removal of the airman in question from flight status.

B. Scheduling the Re-Examination. When scheduling the airman's appointment for the re-examination, and when arranging the location of the re-examination, the inspector should take into account both the airman's convenience and other relevant factors, such as simulator or aircraft availability. The inspector should also allow the airman enough time to prepare for the re-examination. A normal preparation period would be within 10 days after the airman's receipt of the letter of notification. The inspector may make exceptions to this general rule and should be as accommodating as is practical. The inspector may not allow the airman to postpone the re-examination indefinitely.

665. PROCEDURES FOR HANDLING VARIOUS RESPONSES TO NOTIFICATION FOR RE-EXAMINATION. Inspectors should be aware that several types of airman responses may result from sending notification of a re-examination. Inspectors must handle any response with tact and should coordinate closely with the POI and the Regional Counsel, whenever necessary. Some of the varied airman responses are as follows, along with appropriate direction and guidance to be used by inspectors:

A. Airman Submits to Re-Examination. The airman may respond positively and promptly to the letter of notification for a re-examination. In this case, an appropriately qualified inspector shall conduct the inspection at a mutually acceptable time and place. This date should be set at a reasonable and practical time for all involved.

B. Airman Schedules Appointment at a Date Later Than the Specified Limit. The airman may request an appointment for re-examination after the time limit contained in the letter of notification. In this case, the inspector may request that the airman temporarily deposit the airman certificate at the district office. The airman must be informed in the presence of a third person, however, that the airman is not required to deposit the airman certificate with the district office or to sign any statement. This procedure should also be used in the case of an airman convalescing from an accident or illness, or in the case of a person having the aircraft repaired that is to be used for the re-examination flight check.

NOTE: The temporary deposit of the airman's certificate shall never be used to resolve a violation of the FAR's.

- (1) An FAA Form 8060-4, "Temporary Airman Certificate," with the original certificate number affixed, may be issued to the airman to allow for instruction and practice in preparation for the re-examination (see figure 5.9.1.2.). In this case, "passenger-carrying prohibited" or other appropriate limitations should be included on the certificate. For example, if instrument competency is questioned, the temporary airman certificate should not contain the instrument rating. There is never a case in which a student pilot certificate should be issued. The temporary airman certificate issued and the letter of temporary deposit (see figure 5.9.1.6.) must have the same expiration date.
- (2) If the airman has not completed the reexamination at the end of the expiration date due to circumstances beyond the reasonable control of the inspector, the inspector may issue a new temporary airman certificate for an additional period not to exceed 30 days. This action may be taken provided the airman agrees to such action and submits a new letter of temporary deposit to the district office with the appropriate expiration date as described above. If, at the end of this 30-day period, the airman has either not successfully completed the re-examination test, failed to appear, or has not made other acceptable arrangements, immediate legal enforcement action shall be taken to suspend the permanent airman certificate or rating in question until the airman has demonstrated competency to hold that airman certificate. Regional Counsel shall be consulted on disposition of the airman certificate on temporary deposit before its return to the airman.
- C. Airman Voluntarily Surrenders, Downgrades, or Cancels Certificate or Rating. The airman may volunteer to surrender the certificate or rating for cancellation. An airman's application for the voluntary surrender or downgrading of a pilot certificate or for the cancellation of a rating may be accepted by an inspector only in accordance with FAR 61.27.
- (1) Written Request. A certificate or rating shall not be accepted for surrender or downgrading unless the applicant submits a request in writing and fully understands that the reinstatement of the certificate or rating may be accomplished only by successful completion of all required written and practical tests for that certificate or rating. The

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airman's letter for the surrender of the certificate must meet the following criteria:

- Contain a clear explanation of the incident or event and the airman's involvement
- Contain a statement that the airman has been apprised of legal rights and understands the voluntary nature of the surrender in view of these rights
- Must not be conditional and shall be patterned after figure 5.9.1.7.
- (2) Legal Understanding of Voluntary. Not only must the surrender of the airman certificate be voluntary, it must also be documented as such. The inspector must clearly understand that absolutely no FAA coercion is to be used. For example, if an FAA inspector during an investigation told an airman that the airman had violated a FAR, and then the inspector accepted the airman's certificate for surrender, the action would not appear to be voluntary. In a legal enforcement case, FAA inspectors have neither the authority nor the responsibility to make such a statement of violation, as such a statement is solely a function of the Regional Counsel.
- (3) *Procedures*. When an airman elects to surrender an airman certificate as stated in previous subparagraph (1), the inspector may accept the certificate, along with a letter of surrender, in lieu of a re-examination (see figure 5.9.1.8.) signed by the airman. The inspector shall forward the signed letter of surrender, the airman's permanent certificate, a copy of any temporary certificate previously issued in exchange for a permanent certificate on temporary deposit, and a completed application for the issuance of a modified certificate (FAA Form 8710-1), to the Airmen Certification Branch, AVN-460, for cancellation. The inspector shall also forward a copy of the completed file to the regional flight standards division (RFSD) for review.
- D. Airman Refuses to Submit to Re-Examination. If the airman either fails to submit to a re-examination within the time limit stated (excluding unforeseen problems such as weather or mechanical problems), or, if the airman demonstrates an unwillingness to submit to a re-examination, the inspector shall initiate an emergency enforcement action to suspend the airman's certificate. Inspectors shall

use the following guidance and chapter 8 in FAA Order 2150.3, "Compliance and Enforcement Program," for the procedures to follow in such cases:

- (1) Assembling Enforcement Investigation Report. The inspector shall send the full report, citing section 609 of the FA Act, to the Regional Counsel, through the RFSD, with the following attachments:
 - Documentation supporting the need for the airman's re-examination
 - A copy of the original notification letter sent to the airman
 - Evidence of the effort made by the inspector to obtain a voluntary re-examination of the airman
- (2) Regional Counsel Action. When necessary in the interest of aviation safety, inspectors should request that the Regional Counsel issue an emergency order of suspension and an appropriate certificate stop order to suspend the airman's certificate or ratings until the airman submits to the re-examination.
- **667. PROCEDURES FOR CONDUCTING A RE-EXAMINATION.** Inspectors shall use the following direction and guidance when conducting the re-examination of an airman:
- A. *Inspector Qualification*. An inspector conducting a re-examination test must hold at least the same grade of certificate, with appropriate category, class, and type rating as the one for which the airman is being tested. For flight engineer re-examinations, the inspector must be flight engineer-qualified for the aircraft in which the airman is being tested. For re-examinations involving airmen other than flight crewmembers, the inspector shall hold a certificate at least equal to the airman's certificate in question. Designated examiners or check airmen are not authorized to administer section 609 re-examinations.

NOTE: For those aircraft for which the FAA does not maintain a qualified inspector, the regional division manager shall assign the best qualified inspector to accomplish the re-examination.

B. References. Inspectors shall conduct the re-examination of an airman according to the appropriate practical test

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standard, the FAR for the certificate or rating involved, and as established in the relevant chapter of this volume.

- C. Application. Inspectors shall use FAA Form 8400-3, "Application for Airman Certificate and/or Rating" for non-pilots or FAA Form 8710-1, "Airman Certificate and/or Rating Application" when administering a re-examination test for pilots.
- D. Extent of Re-Examination. Inspectors conducting the re-examination should refer to the airman's letter of notification to ensure that all areas specified in the airman's letter are included in the re-examination. Before the re-examination begins, the inspector shall discuss any areas of special emphasis with the airman and resolve any questions or concerns the airman may have. The airman should also be informed that the re-examination is not necessarily limited to the special emphasis items.
- E. Re-Examination of Airman's Knowledge. The reexamination of an airman's aeronautical knowledge should be conducted using an oral or written test developed by the inspector.
- F. *Use of Simulators*. If the airman's qualifications can be evaluated in a simulator, inspectors may conduct the test in a simulator.
- G. Re-Examination of an Airman Following Airspace Violations. If the re-examination is being conducted as a result of a terminal control area (TCA) or airport radar service area (ARSA) incursion, the inspector should consider using Action Notice 8080.62, "Aviation Remedial Action Written Test Book for Airspace Violations," to determine the airman's qualification.
- **669. RE-EXAMINATION RESULTS.** An airman either satisfactorily completes a re-examination or fails it. There is no other status for the completion of a re-examination. Upon completion of the re-examination, the inspector shall immediately debrief the airman concerning the re-examination results. Inspectors should use the following direction and guidance, as applicable:
- A. Airman Has Satisfactorily Completed the Re-Examination. If the airman's re-examination was satisfactorily completed, and the airman's certificate was previously suspended pending the re-examination test results, the

inspector shall issue a letter of results to the airman (see figure 5.9.1.3.). The appropriate district office shall forward a copy of the letter of results to the Regional Counsel which is responsible for taking the necessary actions to terminate the suspension. If the airman must use the certificate immediately, the Regional Counsel may authorize the inspector to issue a temporary certificate bearing the same ratings and limitations as the original certificate. If the airman certificate was not previously suspended pending the results of the re-examination test, the inspector shall issue the airman a letter of results (see figure 5.9.1.3.), and the airman may then continue to exercise the privileges of the certificate and ratings. If the airman certificate was on temporary deposit, the inspector shall return it to the airman.

- B. Airman Has Not Satisfactorily Completed the Re-Examination. The airman must be informed in detail of each deficiency. Additionally, if the airman's certificate had been temporarily deposited at the district office and the temporary deposit term is nearing expiration, a decision must be made as to whether to initiate enforcement proceedings to suspend the certificate or to extend the temporary deposit for a period of time not to exceed 30 days.
- (1) If, in the opinion of the inspector, the airman could successfully complete another re-examination after obtaining additional instruction, every effort must be made to encourage the airman to do so. In this case, the guidance on voluntary temporary deposit of the airman's certificate shall be followed.
- (2) If the inspector does not feel that the airman would benefit from additional instruction, the inspector shall follow the previous guidance on initiating legal enforcement action.
- C. Completion of Inspector's Report. The inspector must complete the inspector's report section on the front side of FAA Form 8400-3, "Application for Airman Certificate and/or Rating" (see figure 5.9.1.4.) or on the reverse side of FAA Form 8710.1, "Airman Certificate and/or Rating Application" (see figure 5.9.1.5.), as applicable. The inspector shall mark either "Approved" or "Disapproved" on the application, as appropriate, to indicate the re-examination results. If appropriate, the inspector shall delete, "Temporary certificate issued" or, "Disapproval notice issued" on the form. The inspector shall attach all required documents,

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make additional copies for the Regional Counsel, and send the completed file to the Airmen Certification Branch, AVN-460. The inspector shall also issue a letter of results to the airman, and may issue a temporary airman certificate when necessary.

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FIGURE 5.9.1.1. LETTER OF NOTIFICATION TO AN AIRMAN FOR A RE-EXAMINATION

FAA Letterhead
CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Date
Airman's Name and Address
Dear:
Investigation of [the accident, incident, occurrence, or other event that led to the re-examination], that occurred on [date], gives reason to believe that your competence as an airman is in question and that a re-examination is necessary as authorized under section 609 of the Federal Aviation Act of 1958 to determine your qualification to hold a [grade of pilot certificate, flight engineer, aircraft dispatcher, etc.] certificate.
We request that you appear at, or telephone, this office no later than 10 calendar days from the receipt of this letter to schedule and accomplish the re-examination. The re-examination will consist of appropriate [grade of certificate or rating] practical test maneuvers with emphasis on [include any special emphasis items].
If you elect to take the re-examination at another Flight Standards District Office or Certificate Management Office, please advise us by completing and returning the enclosed notification form in the self-addressed envelope which is enclosed for your convenience.
If you do not accept this opportunity for re-examination by the date indicated above, it will be necessary for us to start emergency proceedings to suspend your airman certificate unless other arrangements are made. A reasonably later date may be arranged when required by circumstances beyond your control.
Inspector [Name of inspector] is available to discuss this matter with you and provide any information that might assist you.
Signed by Inspector Making Report
District Office Address
Dear Inspector:
I have an appointment with [name] Flight Standards District Office for re-examination at [time] on [date].
Signed by airman

FIGURE 5.9.1.2. FAA FORM 8060-4, "TEMPORARY AIRMAN CERTIFICATE"

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	V.						
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XIII. THIS IS AN ORIG	INAL ISSUANCE CATE	OF THE AL	OMINISTRA			EXAMINER'S DESIGNATION	
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XIII. THIS IS AN ORIGE GRADE OF CERTIFI	INAL ISSUANCE CATE	OF THE AL	OMINISTRA	TOR	-[EXAMINER'S DESIGNATION	NO. OR

FIGURE 5.9.1.3. LETTER OF NOTIFICATION TO AN AIRMAN FOR A RE-EXAMINATION

FAA Letterhead
Date
Airman's Name and Address
Dear:
This letter is to inform you that a re-examination of your competence to exercise the privileges of [type of certificate or rating] conducted on [date] at [location] was satisfactory.
(If enforcement action was pending or the airman certificate was suspended pending re-examination, inform the airman the a copy of this letter is being forwarded to Regional Counsel.)
The results of this re-examination are a matter of record and will be forwarded to the Airmen Certification Branch AVN-460, in Oklahoma City, Oklahoma.
Signed by the Inspector Conducting the Test

FIGURE 5.9.1.4. FAA FORM 8400-3 "APPLICATION FOR AN AIRMAN CERTIFICATE AND/OR RATING" (FRONT ONLY)

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J. PLACE OF BIRTH		L								TELEP	ONE	NO.		
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Instructor's Recommen	dellon						Oral Test				_	C. Practi		
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& Evaluation Record									Signatur					Date
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Practical Test Control Tower Op	erator													
Simulator Check														
Aircraft Flight Check	.													
B. Inspector's Record Temporary Airms	n Certif	icate Iss	ued			tice	of Disappro	val of	Applicat	tion (38)	ued			r's Action Accepted
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FAA FORM 8400-3 (5-84)

FIGURE 5.9.1.5. FAA FORM 8710-1 "AIRMAN CERTIFICATE AND/OR RATING APPLICATION" (REVERSE SIDE) INSPECTOR'S REPORT

	i have persona	Instructed the app			endation er this person rea	dy to take the test.		
Date	Instructor's S	ignature	<u></u>			Certificate No:	Certi	ficate Expires
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	r certification or rating w				T			_ test.
Date	Agency Name	and Number			Official's Signal	ture		
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Certificate or i	ating sooght. Illy reviewed this applicar	nt's graduation certifi	icate and	found it	to be appropriate	and in order, and h	ave re	turned the certificate.
	ally tested this applicant i							
	_	nporary Certificate I						
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							uration	n of Test
Location of Test (Facility, City, State)					Ground	Liation	Flight
Certificate or Rati	ing for Which Tested			Type(s)	of Aircraft Used		Reg	istration No.(s)
Date	Examiner's Signature		<u> </u>	(Certificate No.	Designation N	o. D	esignation Expires
	Evaluator's	Record For Ai	rline T	ranspo	ort Certificate	/Rating Only		
		spector E	xaminer		Sigi	nature		Date
Oral								· · · · · · · · · · · · · · · · · · ·
Simulator Check	t-							
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	-					Ground		Flight
Certificate or Rati	ing for Which Tested			Type(s)	of Aircraft Used		Reg	istration No.(s)
Student Pilot (Certificate issued	0	Certifica	ite or Rai	ting Based on	☐ Instructor		Flight 🗌 Ground
Examiner's Re		_	_	ary Comp	-	☐ Renewa		☐ Approved
☐ ACCEPTE	REJECTED		☐ Forei	ign Licen	50			☐ Disapproved
Examiner Reco	ommends Retesting				urse Graduate	Instructor Ren	ewai B	
	change of Pilot Certificate		Issue	_		☐ Activity ☐ Acquair		☐ Training Course
to Aeromedica	al test conducted—report Il Certification Branch, A	t forwarded AM-130	☐ Deni					
Training Course (FIRC) Name			Gradua	tion Certificate No	o.	Date	
Date	Inspector's Si	gnature					FAA	District Office
Attachments								
Student Pile	ot Certificate (copy)	☐ Airmans Identific	ation (ID)			Notice	of Disapproval
Report of Written Examination							•	seded Pilot Certificate
☐ Temporary Pilot Certificate (copy) Form of ID								er Sheet Graded
Number								er Sheet Graded gn Instrument)
		Expiration Date					,, =, =,	<i></i>
	•	Expiration Date						_

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FIGURE 5.9.1.6. LETTER OF TEMPORARY DEPOSIT

	Date
(pilot, flight engineer,	arrence at (<u>place or brief description of event</u>) on (<u>date</u>), I hereby voluntarily surrender my aircraft dispatcher, etc) certificate number for temporary deposit in the (<u>name of expiration date</u>).
or rating, or I have rec action will be taken to	y that date, I have not demonstrated the airman competence required to hold that certificate revived an extension of time within which to complete the re-examination, legal enforcement suspend the privileges of my certificate or rating until I demonstrate the competence ral Aviation Regulations for its original issuance.
	Signature
	Printed Name
	Address

FIGURE 5.9.1.7. LETTER OF SURRENDER (PENDING ENFORCEMENT ACTION)

	Date				
As a result of the occurrent own language, the occurrent number 123456 for whatever heard as to why my certificate hereby waived.	nce and his or her invo er action the Federal	olvement) I he Aviation Adm	ereby voluntarily inistration may	y surrender m deem necessa	y <u>pilot certificate</u> ry. My rights to be
	Signature				
	Printed Name			•	
	Address		11	•	
				•	

FIGURE 5.9.1.8. LETTER OF SURRENDER IN LIEU OF RE-EXAMINATION

Date

I hereby voluntarily surrender my (type of airman certificate or rating) number (XXXXXXXXXX) to the Federal Aviation Administration for cancellation.

I understand that this constitutes unequivocal abandonment of the certificate and that another FAA certificate or rating may be reissued to me only upon successful completion of all written and practical tests prescribed for its issue by the Federal Aviation Regulations.

Signature	
Printed Name	
Address	